

Message

From: Sussman.Bob@epamail.epa.gov [Sussman.Bob@epamail.epa.gov]
Sent: 12/12/2010 9:48:43 PM
To: Mugdan.Walter@epamail.epa.gov
CC: Brian Donohue [BDonohue@ENRD.USDOJ.GOV]; Brendan_Gilfillan/DC/USEPA/US%EPA@aa.ad.epa.gov; McCabe.Catherine@epamail.epa.gov; Garbarini.Doug@epamail.epa.gov; Southerland.Elizabeth@epamail.epa.gov; Gilbert.Elliott@epamail.epa.gov; Woolford.James@epamail.epa.gov; Enck.Judith@epamail.epa.gov; David King [king.david@epa.gov]; Feldt.Lisa@epamail.epa.gov; George Pavlou [Pavlou.George@epa.gov]; Peter Kautsky [PKautsky@ENRD.USDOJ.GOV]; Eric Schaaf [schaaf.eric@epa.gov]; Seth_Oster/DC/USEPA/US%EPA@aa.ad.epa.gov; Paul Simon [simon.paul@epa.gov]
Subject: Re: Update from GE Discussion on Dec. 12 AM

Walter -- Brackett just called. He is waiting to hear back from us on the one disputed area of the calculation and reiterated that the current GE analysis in his view supports a higher "X" because it demonstrates a greater improvement from Phase 1 to Phase 2. I told him that we were still reviewing the issue but were not inclined to accept the GE recalculation and in any case did not feel it changed our assessment that X=10 was achievable.

Brackett did reiterate that GE could accept 12 (X) and 3 (Y) but that 2 (Y) was impossible (EPA's assessment as well).

Ex. 5 Deliberative Process (DP)

From: Walter Mugdan/R2/USEPA/US
To: Bob Sussman/DC/USEPA/US@EPA
Cc: "Brian Donohue" <BDonohue@ENRD.USDOJ.GOV>, Brendan Gilfillan/DC/USEPA/US@EPA, Catherine McCabe/DC/USEPA/US@EPA, Doug Garbarini/R2/USEPA/US@EPA, Elizabeth Southerland/DC/USEPA/US@EPA, Elliott Gilbert/DC/USEPA/US@EPA, James Woolford/DC/USEPA/US@EPA, Judith Enck/R2/USEPA/US@EPA, "David King" <king.david@epa.gov>, Lisa Feldt/DC/USEPA/US@EPA, "George Pavlou" <Pavlou.George@epa.gov>, "Peter Kautsky" <PKautsky@ENRD.USDOJ.GOV>, "Eric Schaaf" <schaaf.eric@epa.gov>, Seth Oster/DC/USEPA/US@EPA, "Paul Simon" <simon.paul@epa.gov>
Date: 12/12/2010 01:50 PM
Subject: Re: Update from GE Discussion on Dec. 12 AM

Ex. 5 Deliberative Process (DP)

From: Bob Sussman/DC/USEPA/US
To: Walter Mugdan/R2/USEPA/US@EPA, Judith Enck/R2/USEPA/US@EPA, Lisa Feldt/DC/USEPA/US@EPA, James Woolford/DC/USEPA/US@EPA, Elizabeth Southerland/DC/USEPA/US@EPA, Catherine McCabe/DC/USEPA/US@EPA, Elliott Gilbert/DC/USEPA/US@EPA, "Brian Donohue" <BDonohue@ENRD.USDOJ.GOV>, "Peter Kautsky" <PKautsky@ENRD.USDOJ.GOV>, "George Pavlou" <Pavlou.George@epa.gov>, Doug Garbarini/R2/USEPA/US@EPA, "David King" <king.david@epa.gov>, "Eric Schaaf" <schaaf.eric@epa.gov>, "Paul Simon" <simon.paul@epa.gov>, Seth Oster/DC/USEPA/US@EPA, Brendan Gilfillan/DC/USEPA/US@EPA

Ex. 5 Deliberative Process (DP)

From: Walter Mugdan

Sent: 12/12/2010 12:55 PM EST

To: Judith Enck; Bob Sussman; Lisa Feldt; James Woolford; Elizabeth Southerland; Catherine McCabe; Elliott Gilberg; "Brian Donohue" <BDonohue@ENRD.USDOJ.GOV>; "Peter Kautsky" <PKautsky@ENRD.USDOJ.GOV>; "George Pavlou" <Pavlou.George@epa.gov>; Doug Garbarini; "David King" <king.david@epa.gov>; "Eric Schaaf" <schaaf.eric@epa.gov>; "Paul Simon" <simon.paul@epa.gov>; Seth Oster; Brendan Gilfillan

Subject: Re: Update from GE Discussion on Dec. 12 AM

Ex. 5 Deliberative Process (DP)

From: Judith Enck

Sent: 12/12/2010 11:27 AM EST

To: Walter Mugdan; Bob Sussman; Lisa Feldt; James Woolford; Elizabeth Southerland; Catherine McCabe; Elliott Gilberg; "Brian Donohue" <BDonohue@ENRD.USDOJ.GOV>; "Peter Kautsky" <PKautsky@ENRD.USDOJ.GOV>; "George Pavlou" <Pavlou.George@epa.gov>; Doug Garbarini; "David King" <king.david@epa.gov>; "Eric Schaaf" <schaaf.eric@epa.gov>; "Paul Simon" <simon.paul@epa.gov>; Seth Oster; Brendan Gilfillan

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Ex. 5 Deliberative Process (DP)

From: Walter Mugdan

Sent: 12/12/2010 11:19 AM EST

To: Judith Enck; Bob Sussman; Lisa Feldt; James Woolford; Elizabeth Southerland; Catherine McCabe; Elliott Gilberg; "Brian Donohue" <BDonohue@ENRD.USDOJ.GOV>; "Peter Kautsky" <PKautsky@ENRD.USDOJ.GOV>; "George Pavlou" <Pavlou.George@epa.gov>; Doug Garbarini; "David King" <king.david@epa.gov>; "Eric Schaaf" <schaaf.eric@epa.gov>; "Paul Simon" <simon.paul@epa.gov>; Seth Oster; Brendan Gilfillan

Subject: Re: Update from GE Discussion on Dec. 12 AM

Ex. 5 Deliberative Process (DP)

From: Judith Enck

Sent: 12/12/2010 10:50 AM EST

To: Bob Sussman; Walter Mugdan; Lisa Feldt; James Woolford; Elizabeth Southerland; Catherine McCabe; Elliott Gilberg; "BDonohue" <BDonohue@ENRD.USDOJ.GOV>; "PKautsky" <PKautsky@ENRD.USDOJ.GOV>; "Pavlou George" <Pavlou.George@epa.gov>; Doug Garbarini; "king david" <king.david@epa.gov>; "schaaf eric" <schaaf.eric@epa.gov>; "simon paul" <simon.paul@epa.gov>; Seth Oster; Brendan Gilfillan

Subject: Re: Update from GE Discussion on Dec. 12 AM

Ex. 5 Deliberative Process (DP)

From: Bob Sussman

Sent: 12/12/2010 10:33 AM EST

To: Walter Mugdan; Lisa Feldt; James Woolford; Elizabeth Southerland; Catherine McCabe; Elliott Gilberg; "BDonohue" <BDonohue@ENRD.USDOJ.GOV>; "PKautsky" <PKautsky@ENRD.USDOJ.GOV>; Judith Enck; "Pavlou George" <Pavlou.George@epa.gov>; Doug Garbarini; "king david" <king.david@epa.gov>; "schaaf eric" <schaaf.eric@epa.gov>; "simon paul" <simon.paul@epa.gov>; Seth Oster; Brendan Gilfillan

Subject: Re: Update from GE Discussion on Dec. 12 AM

Very consistent with my discussion with Brackett. (See my e-mail). Since I am talking to him again later, further feedback from your team on the difference in methodology would be helpful.

Ex. 5 Deliberative Process (DP)

From: Walter Mugdan

Sent: 12/12/2010 10:09 AM EST

To: Bob Sussman; Lisa Feldt; James Woolford; Elizabeth Southerland; Catherine McCabe; Elliott Gilberg; BDonohue@ENRD.USDOJ.GOV; PKautsky@ENRD.USDOJ.GOV; Judith Enck; Pavlou.George@epa.gov; Doug Garbarini; king.david@epa.gov; schaaf.eric@epa.gov; simon.paul@epa.gov

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We just got off a call with GE.

We understand now why and how GE came up with such a different number for "acres capped in Non-Bedrock/Clay areas" from the one we came up with.

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On the fundamental question about the values of X and Y, I had yesterday posed essentially question to GE: "Which of the following two possibilities do you dislike less -- 10/4 or 11/3?"

Ann today did not answer the question in the way I had posed it. Instead, she said she understood that the value of Y is particularly important to the State, Trustees and NGOs, and she confirmed that GE is particularly concerned about the value of X. She therefore proposed 12/3 -- that is, X = 12% of 440 acres, and Y = 3% of 440 acres.

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On other issues, we are very close on resuspension; we communicated a revised EPA position which is very close to GE's proposal. GE will get back to us later today in response.

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- Walter